

**MINUTES OF THE
EXECUTIVE OFFICES & CRIMINAL JUSTICE
JOINT APPROPRIATIONS SUBCOMMITTEE
ROOM 405, STATE CAPITOL BUILDING
February 11, 2004**

Members Present: Sen. D. Chris Buttars, Co-Chair
Rep. David L. Hogue, Co-Chair
Sen. Patrice Arent
Rep. Ron Bigelow
Rep. Scott Daniels
Rep. James A. Dunnigan
Rep. Eric K. Hutchings
Rep. Brad King
Rep. Bradley G. Last
Rep. Dana C. Love

Members Absent: Sen. Michael Waddoups

Staff Present: Jonathan Ball, Fiscal Analyst
Gary Ricks, Fiscal Analyst
Greta Rodebush, Committee Secretary

Visitors List: List filed with committee minutes

Note: A list of visitors and a copy of handouts are filed with the committee minutes.

NOTE: All those who testified before the subcommittee did so under the oath as administered by Fiscal Analyst, Gary Ricks.

Co-Chair Hogue called the meeting to order at 2:17 p.m.

MOTION: Sen. Arent moved to approve the minutes of February 5, 2004. The motion passed unanimously with Rep. Bigelow, Rep. Hutchings, and Sen. Buttars absent for the vote.

Co-Chair Hogue invited the Governor's Office to come forward with their presentation on RS 2477 Rights-of-Way. A handout was distributed which included the FY 2004 Funding Chart for the Constitutional Defense Fund and the Expenditure History for RS 2477 Spending. Lynne Ward, Deputy Chief of Staff, Governor's Office, introduced Wes Curtis, State Planning Coordinator, who gave a power point presentation on the work being done on RS 2477 project.

Lynne Ward explained that \$2 million of Mineral Lease Revenue is placed into the Constitutional Defense Fund. From there, \$1,880,000 million, by statute, is allocated to the Governor's Office, and \$120,000, through intent language is allocated to the Attorney General's

Office. Ms. Ward also reviewed the Expenditure History of the RS 2477 Spending and commented on expenses for county mapping and data gathering.

Gary Doxey answered clarifying questions from the subcommittee.

Mark Shurtleff, Attorney General, commented on the RS 2477. He explained that the Constitutional Defense Council had worked towards bringing forth a statute that would establish a collaborative process whereby the state and the counties could work together as equal partners in preserving Utah roads. He expressed his concern that the Governor's Office has not entirely included County Commissions in the decision making process nor has the Attorney General's Office been consulted in all matters that require legal representation. He would like to see this brought into balance. He does not want to have the \$1.8 million brought into the Attorney General's Office, and he is intent on representing both the state and counties in RS 2477 matters.

Co-Chair Hogue suggested that perhaps some intent language would be appropriate in order to resolve some of these issues between the Governor's Office, the Attorney General, and the counties.

In response to previous subcommittee inquiries, Mr. Shurtleff indicated that the Attorney General's Office provides about \$2.6 million in services, free of charge, to the counties to cover Appeals, Criminal cases, and Children's Justice.

Intent Language

Before presenting intent language, Fiscal Analyst Ball discussed the list of FY 2004 One-time Items Covered/Not Covered by Executive Appropriations Allocations.

As per intent language, Fiscal Analyst Ball stated that all intent language had been reviewed by Legislative Research and General Counsel and some minor adjustments had been recommended.

For the Governor's Office, the following intent language was recommended:

It is the intent of the Legislature that funds expended from the R.S. 2477 Fund be used for litigation designed to quiet title to existing rights of way established before 1976 under RS 2477 guidelines. It is further the intent of the Legislature that the Governor or his designee shall present a report to the Legislature prior to the 2005 General Session detailing activities funded within this line item.

The Attorney General's Office requested that the words "or negotiations" after "litigation" be added to the intent language.

MOTION: Rep. King moved to amend the intent language for the Governor's Office by inserting "or negotiations" after "litigation".

It is the intent of the Legislature that funds expended from the R.S. 2477 Fund be used for litigation or negotiations designed to quiet title to existing rights of way established before 1976 under RS 2477 guidelines. It is further the intent of the Legislature that the Governor or his designee shall present a report to the Legislature prior to the 2005 General Session detailing activities funded within this line item.

The motion passed unanimously with Rep. Bigelow absent for the vote.

MOTION: Rep. Hutchings moved to amend the intent language for the Governor's Office by deleting the period "." after "item." and inserting ", including information on cooperation and coordination with counties and the Attorney General's Office."

It is the intent of the Legislature that funds expended from the R.S. 2477 Fund be used for litigation or negotiations designed to quiet title to existing rights of way established before 1976 under RS 2477 guidelines. It is further the intent of the Legislature that the Governor or his designee shall present a report to the Legislature prior to the 2005 General Session detailing activities funded within this line item, including information on cooperation and coordination with counties and the Utah Attorney General's Office.

The motion passed unanimously with Rep. Bigelow absent for the vote.

Fiscal Analyst Ricks noted one other change in intent language within the Department of Public Safety that deletes "Senior Trooper III level" and inserts "officers". The modification reads as follows:

It is the intent of the Legislature that the Department of Public Safety is authorized to advance officers from existing appropriations and/or savings.

MOTION: Rep. Hutchings moved to approve the intent language for each agency individually.

It was Co-Chair Hogue's prerogative not to pass on this motion. The subcommittee proceeded to review the intent language.

Governor's Office - RS-2477 Rights of Way

MOTION: Rep. Hutchings moved to adopt the amended intent language for the Governor's Office as follows:

It is the intent of the Legislature that funds expended from the R.S. 2477 Fund be used for litigation or negotiations designed to quiet title to existing rights of way established before 1976 under RS 2477 guidelines. It is further the intent of the Legislature that the Governor or his designee shall present a report to the Legislature prior to the 2005 General Session detailing activities funded within this line item, including information on cooperation and coordination with counties and the Utah Attorney General's office.

The motion passed unanimously with Rep. Bigelow absent for the vote.

Attorney General

MOTION: Rep. Hutchings moved to adopt the following intent language for the Attorney General's Office:

It is the intent of the Legislature that up to \$120,000 provided from the General Fund Restricted -Constitutional Defense account be used to pay for legal services regarding public lands issues involving the state, other than those related to existing rights of way established before 1976 under RS-2477 guidelines.

The motion passed unanimously with Rep. Bigelow absent for the vote.

MOTION: Rep. Daniels moved to adopt the following intent language for the Attorney General's Office:

It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst shall examine whether cost of computer assisted legal research can be reduced.

The motion passed unanimously with Rep. Bigelow absent for the vote.

Corrections - Corrections Programs & Operations

MOTION: Rep. Dunnigan moved to adopt the following intent language for the Department of Corrections on Prison Medical Services:

Corrections - Corrections Programs & Operations (cont.)

The Legislature intends that the Department of Corrections develop a plan for implementing recommendations made by Jaqueline Moore and Associates including, but not limited to: use of less costly pharmaceuticals on a preferred drug list, consolidation of pharmacy operations, and restructuring of Corrections; medical budget. The Legislature further intends that the Department report its plan to the Executive Offices and Criminal Justice Appropriations Subcommittee prior to the 2005 General Session.

Co-Chair Hogue recommended that the subcommittee wait to vote on this motion until they had an opportunity to hear the presentation on the Clinical Services Privatization Report by the Department of Corrections on Thursday, February 12, 2004.

Rep. Dunnigan withdrew his motion.

MOTION: Rep. Dunnigan moved to adopt the following intent language for the Department of Corrections - Corrections Programs & Operations:

*The Legislature intends that the Utah Department of Corrections pursue the following performance goals in Fiscal Year 2005:
Housing Utilization: 95% of Maximum Capacity
Parolee Rate of Return: 25% New Prison Admission of Parolees
Probationer Rate of Return: 3.5% New Prison Admission of Probationers*

The motion passed unanimously with Rep. Bigelow absent for the vote.

ISF - Corrections - ISF - Corrections Internal Service Fund

MOTION: Rep. Dunnigan moved to adopt the following intent language for the Department of Corrections-Internal Service Fund:

The Legislature intends that all but \$374,500 in prior year capital outlay authorization granted to the Department of Corrections Data Processing Internal Service Fund shall lapse on July 1, 2004. The Legislature further intends that \$374,500 in non-lapsing FY 2004 authorization shall be used to upgrade and expand O-TRACK development and production hardware.

The motion passed unanimously with Rep. Bigelow absent for the vote.

Youth Corrections - Services and Courts - Administration

MOTION: Rep. Hutchings moved to delete the following intent language for the Division of Juvenile Justice Services and for Courts - Administration. They are as follows:

It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst shall examine the structure of juvenile probation and Juvenile Justice Services to determine if a single system would provide budget savings or flexibility to the state.

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The motion passed unanimously with Rep. Bigelow absent for the vote.

MOTION : Rep. Dunnigan moved to delete the following intent language for the Division of Juvenile Justice Services and for Courts - Administration, and recommend that this issue be placed on the Master Study List for the interim. The intent language is as follows:

It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst shall prepare a report detailing the number, amount and cost of private contractor COLAs. It is anticipated that the report will offer solutions for providing fair compensation to private and local government contractors in a way that accounts for increases in costs over time.

It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst shall prepare a report detailing the number, amount and cost of private contractor COLAs. It is anticipated that the report will offer solutions for providing fair compensation to private and local government contractors in a way that accounts for increases in costs over time.

The motion passed unanimously.

MOTION: Rep. Last moved to adopt the following intent language for the Division of Juvenile Justice - Programs and Operations:

It is the intent of the Legislature that the Division of Juvenile Justice Services may provide capital to the Division of Fleet Operations for the purchase of no more than two vehicles for use at the new Washington County facility.

The motion passed unanimously.

MOTION: Rep. Daniels moved to adopt the following intent language for Court Administration:

It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst shall examine whether cost of computer assisted legal research can be reduced.

The motion passed unanimously.

Public Safety - Public Safety Programs & Operations

MOTION: Rep. Daniels moved to adopt the following intent language for the Department of Public Safety - Programs & Operations:

It is the intent of the Legislature that the Department of Public Safety may increase the fleet if funding is provided through federal aid or other sources for special programs or projects. It is further the intent of the Legislature that vehicles purchased under this intent language will not be eligible for replacement using General Fund borrowing capacity held by the State Division of Fleet Operations. Any expansion vehicle purchase during the interim under this intent language shall be reported to the Legislative Fiscal Analyst.

The motion passed unanimously.

MOTION: Rep. Love moved to adopt the following intent language for the Department of Public Safety - Programs & Operations:

It is the intent of the Legislature that receipts above the appropriated dedicated credits amount of reimbursable flight time for the Department of Public Safety aircraft shall not lapse and be used for major aircraft maintenance.

The motion passed unanimously.

MOTION: Rep. King moved to adopt the following intent language for the Department of Public Safety - Programs & Operations:

It is the intent of the Legislature that the Department of Public Safety is authorized to advance officers from existing appropriations and/or savings.

The motion passed unanimously.

MOTION: Rep. King moved to adopt the following intent language for the Department of Public Safety - Programs & Operations:

It is the intent of the Legislature that the Department of Public Safety may continue with the consolidated line items of appropriation for Fiscal Year 2005 to assist with mitigation of base budget reductions. It is further the intent of the Legislature that this consolidation is for the period of Fiscal Year 2005 only. The following line items of appropriations for continued consolidation into one line item for Fiscal Year 2005 are: Commissioner's Office; Criminal Investigations and Technical Services Division; Utah Highway Patrol; Management Information Services; and Fire Marshal's Office. The remainder of the Department's line items of appropriation will each remain separate line items. These are: Emergency Services and Homeland Security; Peace Officer Standards and Training; Liquor Law Enforcement; Driver License Division; and Utah Highway Safety.

The motion passed unanimously.

Co-Chair Hogue moved to saunter at 3:50 p.m.

Co-Chair Hogue reconvened the meeting at 4:00 p.m.

Fiscal Analyst Ball commented on the following handouts distributed to subcommittee: "Inmate Placement Program Bed Availability", and "The MATRIX Matrix", "Restricted Fund Balances As Of 1/28/2004", and Department of Human Resources Management "Officer Survey" and "2003 Benchmark Market Comparability Midpoint Data Rankings". This information had been previously requested by the subcommittee.

Non-Lapsing Authority

Fiscal Analyst Ball handed out intent language with non-lapsing options for the subcommittee to consider. A discussion ensued which included comments from the Agencies. The consensus from responding Agencies was that the current arrangement granting non-lapsing authority 18 months prior to fiscal year end was the preferred option.

MOTION: Rep. Hutchings moved to grant all Executive Offices & Criminal Justice line items non-lapsing authority for Fiscal Year 2005.

The motion passed unanimously with Rep. Bigelow absent for the vote.

Priorities List

Co-Chair Hogue brought to the subcommittee's attention a copy of the Executive Offices and Criminal Justice Appropriations Subcommittee Priorities List, as of Wednesday, February 11, 2004. He asked the members to identify their top ten priorities.

Fiscal Analyst Ball noted that the priorities list be amended to include the dollar amounts for three items for the Department of Corrections: \$4 million Oxbow Operations, \$1.6 million Oxbow Community Corrections Center, and \$3.8 million Growth in Male Populations.

Co-Chair Buttars asked that \$6.2 million S.B. 21 Drug Offenders' Reform Act be added to the priorities list.

Rep. King requested that \$307,000 Castle County Youth Detention Center Operations be added to the priorities list as well.

Rep. Daniels pointed out that there were a number of priority items that are state obligations and ought not to be considered in when selecting the top ten priorities. Those items were Courts Leases and Contracts, DPS Building Leases, and Attorney General Lawsuits/Settlements.

Jail Reimbursement Core Costs - Intent Language

Fiscal Analyst Ricks handed out a copy of recommended intent language on Jail Reimbursement Core Costs and FY 2004 Medical and Transportation Funding.

MOTION: Sen. Buttars moved to adopt the following intent language on Jail Reimbursement Core Costs:

The Legislature intends that the Department of Corrections shall adjust its rule on Jail Reimbursement so that it more closely conforms with Utah Code Annotated Title 64 Chapter 13c. Specifically, the Legislature intends that the Department shall reimburse core inmate incarceration costs from the Jail Reimbursement line item at the rate of 70%. The Legislature intends that the Department reimburse costs related to transportation and/or medical care of probationers sentenced to county jail from the Jail Reimbursement line item as funding allows and up to the rate of 70%.

The motion passed unanimously with Rep. Bigelow absent for the vote.

In regards to FY 2004 Medical and Transportation Funding, Co-Chair Buttars stated that he would not support intent language that would reduce the Department of Corrections Programs and Operations line item by \$1 million from General Fund, one-time in FY 2004, and increase the Department of Corrections Jail Reimbursement line item by \$1 million from General Fund, one-time in FY 2004.

Mike Chabrias, Executive Director, Department of Corrections, stated that he was prepared to make those line item transfers if the subcommittee so moved.

Rep. Hutchings moved to move onto the next item on the agenda.

Co-Chair Hogue asked for a motion to place Co-Chair Buttars' and Rep. King's previously mentioned budget requests as well as Oxbow Operations, Oxbow Community Corrections Center, and Growth in Male Population budget amounts on the priorities list.

MOTION: Co-Chair Buttars moved to place the following items on the priorities list: Juvenile Justice Services - \$307,900 General Fund, On-going, Castle County Youth Detention Center; Department of Corrections- \$4.0 million Oxbow Operations, \$1.6 million Oxbow Community Corrections Center, \$3.8 million Growth in Male Population, and \$6.2 million S.B. 21 Drug Offenders' Reform Act. The motion passed unanimously with Rep. Bigelow absent for the vote.

Fees

Fiscal Analyst Ricks called the subcommittee's attention to the Analyst's recommended list of fees for the Department of Public Safety.

Co-Chair Hogue asked the subcommittee to review those fees prior to the next meeting on Thursday, February 12, 2004.

Rep. Hutchings commented on the draft letter regarding HAVA, Help America Vote Act, from Senator D Chris Buttars and Representative David L. Hogue to Members of the Capital Facilities and Administrative Services Appropriations Subcommittee. The letter essentially urges funding \$700,000 in a loan to assist in matching federal funds which would bring \$28 million to the State of Utah to upgrade the election process.

MOTION: Rep. Hutchings moved that the Executive Offices and Criminal Justice Appropriations Subcommittee make this \$700,000 General Fund recommendation to match federal HAVA money to Executive Appropriations as well. The motion passed unanimously with Rep. Bigelow absent for the vote.

MOTION: Rep. King moved to adjourn the meeting. The motion passed unanimously with Rep. Bigelow absent for the vote.

Co-Chair adjourned the meeting at 5:04 p.m.

Sen. D. Chris Buttars, Co-Chair

Rep. David L. Hogue, Co-Chair